

# Senate Study Bill 1252 - Introduced

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
WAYS AND MEANS BILL BY  
CHAIRPERSON BOLKCOM)

## A BILL FOR

1 An Act relating to the taxation of water utilities by  
2 establishing a water utilities replacement tax, imposing  
3 a statewide water utility property tax, providing for the  
4 administration of the replacement tax and statewide property  
5 tax, providing penalties, and including effective date and  
6 applicability provisions.  
7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 257.3, subsection 1, paragraph c, Code  
2 2013, is amended to read as follows:

3 c. Replacement taxes under chapter 437A or chapter 437B  
4 shall be regarded as property taxes for purposes of this  
5 chapter.

6 Sec. 2. Section 331.604, subsection 4, Code 2013, is amended  
7 to read as follows:

8 4. A county shall not be required to pay a fee to the  
9 recorder for filing or recording instruments. However, a  
10 county treasurer is required to pay recording fees pursuant to  
11 ~~section~~ sections 437A.11 and 437B.7.

12 Sec. 3. Section 421.10, Code 2013, is amended to read as  
13 follows:

14 **421.10 Appeal period — applicability.**

15 The appeal period for revision of assessment of tax,  
16 interest, and penalties set out under section 422.28, 423.37,  
17 437A.9, 437A.22, 437B.5, 437B.18, 452A.64, 453A.29, or 453A.46  
18 applies to appeals to notices from the department denying  
19 changes in filing methods, denying refund claims, and denying  
20 portions of refund claims for the tax covered by that section,  
21 and notices of any department action directed to a specific  
22 taxpayer, other than licensing, which involves a calculation.

23 Sec. 4. Section 427A.1, subsection 1, paragraph h, Code  
24 2013, is amended to read as follows:

25 h. Property assessed by the department of revenue pursuant  
26 to sections 428.24 to 428.29, or chapters 433, 434, 437, 437A,  
27 437B, and 438.

28 Sec. 5. Section 427B.17, subsection 5, unnumbered paragraph  
29 1, Code 2013, is amended to read as follows:

30 This section shall not apply to property assessed by the  
31 department of revenue pursuant to sections 428.24 to 428.29, or  
32 chapters 433, 434, 437, 437A, 437B, and 438, and such property  
33 shall not receive the benefits of this section.

34 Sec. 6. Section 428.24, Code 2013, is amended to read as  
35 follows:

1     **428.24 Public utility plants.**

2     The lands, buildings, machinery, and mains belonging to  
3 individuals or corporations operating waterworks, other than  
4 waterworks taxed under chapter 437B, or gasworks or pipelines,  
5 except those natural gas pipelines permitted pursuant to  
6 chapter 479, shall be listed and assessed by the department of  
7 revenue. In the making of assessments of waterworks plants,  
8 the value of any interest in the property assessed, of the  
9 municipal corporation where it is situated, shall be deducted,  
10 whether the interest is evidenced by stock, bonds, contracts,  
11 or otherwise.

12     Sec. 7. Section 428.26, Code 2013, is amended to read as  
13 follows:

14     **428.26 Personal property.**

15     1. All the personal property of such individuals and  
16 corporations used or purchased by them for the purposes of such  
17 gas or waterworks, other than natural gas pipelines permitted  
18 pursuant to chapter 479 and other than waterworks taxed under  
19 chapter 437B, shall be listed and assessed by the department  
20 of revenue.

21     2. In the making of any such assessment of waterworks  
22 plants, the value of any interest in the property so assessed,  
23 of the municipal corporation in which the waterworks is  
24 situated, shall be deducted, whether such interest be evidenced  
25 by stock, bonds, contracts, or otherwise.

26     Sec. 8. Section 428.28, Code 2013, is amended to read as  
27 follows:

28     **428.28 Annual report by utility.**

29     1. Every individual, partnership, corporation, or  
30 association operating for profit, waterworks, other than  
31 waterworks taxed under chapter 437B, or gasworks or pipelines  
32 other than natural gas pipelines permitted pursuant to  
33 chapter 479, annually on or before May 1 of each calendar  
34 year, shall make a report on blanks to be provided by the  
35 department of revenue of all of the property owned by such

1 individual, partnership, corporation, or association within the  
2 incorporated limits of any city in the state, and give such  
3 other information as the director of revenue shall require.

4     2. Every individual, partnership, corporation, or  
5 association which operates a public utility on a nonprofit  
6 basis other than a utility subject to tax under chapter 437A  
7 or chapter 437B, as defined in section 428.24 shall annually,  
8 on or before May 1 of each calendar year, make a report on  
9 blanks to be provided by the department of revenue of all of  
10 the property owned by the individual, partnership, corporation,  
11 or association within the incorporated limits of any city in  
12 the state, and give other information the director of revenue  
13 requires.

14     Sec. 9. Section 437A.15, subsection 7, paragraph b, Code  
15 2013, is amended to read as follows:

16     b. The task force shall study the effects of the replacement  
17 ~~tax~~ taxes under this chapter and chapter 437B on local taxing  
18 authorities, local taxing districts, consumers, and taxpayers  
19 through January 1, ~~2013~~ 2016. If the task force recommends  
20 modifications to the replacement tax that will further the  
21 purposes of tax neutrality for local taxing authorities, local  
22 taxing districts, taxpayers, and consumers, consistent with the  
23 stated purposes of this chapter, the department of management  
24 shall transmit those recommendations to the general assembly.

25     Sec. 10. NEW SECTION. 437B.1 Purposes.

26     The purposes of this chapter are to replace property taxes  
27 imposed on water utilities with a system of taxation which  
28 will remove fluctuations in property taxes by imposing a  
29 system of taxation based on the delivery of water, to preserve  
30 revenue neutrality and debt capacity for local governments  
31 and taxpayers, to preserve neutrality in the allocation and  
32 cost impact of any replacement tax among and upon consumers  
33 of water utilities in this state, and to provide a system of  
34 taxation which reduces existing administrative burdens on state  
35 government.

1     Sec. 11. NEW SECTION.   **437B.2 Definitions.**

2     As used in this chapter, unless the context otherwise  
3 requires:

4     1. "*Centrally assessed property tax*" means property tax  
5 imposed with respect to the value of property determined by the  
6 director pursuant to sections 428.24 to 428.29, Code 2013, and  
7 allocated to water service.

8     2. "*Consumer*" means an end user of water used or consumed  
9 within the service area of a water utility. "*Consumer*" includes  
10 any master-metered facility even though the water delivered  
11 to such facility may ultimately be used by another person. A  
12 person to whom water is delivered by a master-metered facility  
13 is not a consumer. A "*master-metered facility*" means any  
14 multi-occupancy premises where units are separately rented or  
15 owned and where individual metering is impractical, where the  
16 facility is designated for elderly or handicapped persons and  
17 utility costs constitute part of the operating cost and are not  
18 apportioned to individual units, or where submetering or resale  
19 of service was permitted prior to 1966.

20     3. "*Delivery*" means the physical transfer of water to a  
21 consumer for sale. Physical transfer to a consumer occurs when  
22 transportation of water ends and such water becomes available  
23 for use or consumption by a consumer.

24     4. "*Director*" means the director of revenue.

25     5. "*Lease*" means a contract between a lessor and lessee  
26 pursuant to which the lessee obtains a present possessory  
27 interest in tangible property without obtaining legal title in  
28 such property. A contract to deliver water using operating  
29 property within this state is not a lease. "*Capital lease*"  
30 means a lease classified as a capital lease under generally  
31 accepted accounting principles.

32     6. "*Local taxing authority*" means a city, county, community  
33 college, school district, or other taxing authority located in  
34 this state and authorized to certify a levy on property located  
35 within such authority for the payment of bonds and interest or

1 other obligations of such authority.

2 7. "*Local taxing district*" means a geographic area with a  
3 common consolidated property tax rate.

4 8. a. "*Major addition*" means any acquisition on or after  
5 January 1, 2013, by a taxpayer, by transfer of ownership,  
6 self-construction, or capital lease of any interest in any of  
7 the following:

8 (1) A building in this state where the acquisition cost of  
9 all interests acquired exceeds ten million dollars.

10 (2) A water treatment plant where the acquisition cost  
11 of all interests acquired exceeds ten million dollars. For  
12 purposes of this paragraph, "*water treatment plant*" means  
13 buildings and equipment used in that portion of the water  
14 supply system which in some way alters the physical, chemical,  
15 or bacteriological quality of the water.

16 (3) Water utility operating property within a local taxing  
17 district where the acquisition cost of all interests acquired  
18 exceeds one million dollars.

19 (4) Any water utility property in this state acquired by a  
20 person not previously subject to taxation under this chapter  
21 pursuant to section 437B.12.

22 b. For purposes of this chapter, the acquisition cost of  
23 an asset acquired by capital lease is its capitalized value  
24 determined under generally accepted accounting principles.

25 9. "*Nonrevenue water*" means the difference between the total  
26 number of gallons of water carried through the water utility's  
27 distribution system and the number of gallons of water  
28 delivered to consumers using the water utility's distribution  
29 system.

30 10. "*Operating property*" means all property owned by or  
31 leased to a water utility, not otherwise taxed separately,  
32 which is necessary to and without which the company could not  
33 perform the activities of a water utility.

34 11. "*Replacement tax*" means the excise tax imposed on the  
35 delivery of water under section 437B.3.

1     12. "*Service area*" means the geographical area within this  
2 state to which the water utility delivers water and related  
3 services. A water utility's service area shall be that  
4 area described in the water utility's tariff filed with the  
5 utilities board.

6     13. "*Taxpayer*" means a water utility or other person subject  
7 to the replacement tax imposed under section 437B.3.

8     14. "*Tax year*" means a calendar year beginning January 1 and  
9 ending December 31.

10    15. "*Utilities board*" means the utilities board created in  
11 section 474.1.

12    16. "*Water utility*" means a person engaged primarily in the  
13 production, delivery, service, or sale of water in a service  
14 area, whether formed or organized under the laws of this state  
15 or elsewhere, and subject to the rate and service regulation of  
16 the utilities board pursuant to chapter 476. "*Water utility*"  
17 does not include a cooperative, municipal utility, or other  
18 entity engaged primarily in such activities that is not under  
19 the jurisdiction of the utilities board.

20    Sec. 12. NEW SECTION. **437B.3 Replacement tax imposed on**  
21 **delivery of water.**

22    1. A replacement delivery tax is imposed on each water  
23 utility that delivers water to a consumer within the water  
24 utility's service area. The replacement delivery tax imposed  
25 by this section is equal to the number of gallons of water  
26 delivered to consumers in the water utility's service area by  
27 the taxpayer during the tax year multiplied by the replacement  
28 delivery tax rate in effect for the service area.

29    2. The replacement delivery tax rate for each service area  
30 shall be calculated by the director as follows:

31    a. The director shall determine the average annual centrally  
32 assessed property tax liability allocated to water delivery  
33 for those water utilities operating within the service area  
34 for the assessment years 2008 through 2012 based on property  
35 tax amounts due and payable as the result of those assessment

1 years.

2     *b.* The director shall determine the number of gallons of  
3 water delivered to consumers in the service area which would  
4 have been subject to taxation under this section in calendar  
5 year 2013, had such sections been in effect for calendar year  
6 2013.

7     *c.* The director shall determine a replacement delivery tax  
8 rate for each service area by dividing average annual centrally  
9 assessed property tax liability, as determined in paragraph  
10 "*a*", by the number of gallons of water delivered, as specified  
11 in paragraph "*b*".

12     3. *a.* If for any tax year after calendar year 2013, the  
13 total number of gallons of water required to be reported by  
14 a water utility pursuant to section 437B.4, subsection 1,  
15 paragraph "*a*", increases or decreases by more than the threshold  
16 percentage from the base year amount for that water utility  
17 during the immediately preceding five calendar years, the  
18 replacement tax rate imposed under subsection 1 for that tax  
19 year shall be recalculated by the director for that water  
20 utility so that the total of the tentative replacement delivery  
21 taxes required to be reported pursuant to section 437B.4,  
22 subsection 1, paragraph "*b*", for that water utility with respect  
23 to the tax imposed under subsection 1, shall be as follows:

24       (1) If the number of gallons of water required to be  
25 reported increased by more than the threshold percentage, one  
26 hundred two percent of such taxes required to be reported by  
27 the water utility for that water utility for the immediately  
28 preceding tax year.

29       (2) If the number of gallons of water required to be  
30 reported decreased by more than the threshold percentage,  
31 ninety-eight percent of such taxes required to be reported by  
32 the water utility for that water utility for the immediately  
33 preceding tax year.

34     *b.* For purposes of paragraph "*a*", subparagraphs (1) and  
35 (2), in computing the tax rate under subsection 1, for tax



1 year 2014, the director shall use the average annual centrally  
2 assessed property tax liability allocated to water sales  
3 computed pursuant to subsection 2, paragraph "a", in lieu of the  
4 taxes required to be reported for that water utility for the  
5 immediately preceding tax year.

6     *c.* For purposes of this section, "*base year amount*" means  
7 for calendar years prior to tax year 2014, the sum of the  
8 gallons of water delivered to consumers by the water utility  
9 which would have been subject to taxation under this section  
10 had this section been in effect for those years; and for  
11 tax years after calendar year 2013, the number of gallons of  
12 water required to be reported by the water utility pursuant to  
13 section 437B.4, subsection 1, paragraph "a".

14     *d.* The threshold percentage shall be five percent.

15     4. The replacement delivery tax rate in effect for each  
16 service area shall be published by the director in the Iowa  
17 administrative bulletin on or before November 30, 2014, and  
18 annually after that date, during the last quarter of the tax  
19 year.

20     5. If recalculation of the replacement delivery tax rate  
21 is required pursuant to subsection 3, the new rate shall be  
22 published in the Iowa administrative bulletin by the director  
23 by no later than May 31 following the end of the tax year. The  
24 director shall adjust the tentative replacement tax imposed by  
25 subsection 1 and required to be shown on any affected water  
26 utility's return pursuant to section 437B.4, subsection 1,  
27 paragraph "b", to reflect the adjusted replacement delivery  
28 tax rate for the tax year, and report such adjustment to the  
29 affected water utility on or before June 30 following the end  
30 of the tax year. The new replacement delivery tax rate shall  
31 apply prospectively, until such time as further adjustment is  
32 required.

33     6. For a service area established as the result of the  
34 formation or organization of a new water utility on or after  
35 January 1, 2014, the director shall to the extent possible

1 determine a replacement delivery tax rate for the new  
2 service area using the procedures of this section and for the  
3 information for the year that the water utility was first under  
4 the jurisdiction of the utilities board.

5     Sec. 13. NEW SECTION.   **437B.4 Return and payment**  
6 **requirements.**

7     1. Each taxpayer, on or before March 31 following a tax  
8 year, shall file with the director a return including but not  
9 limited to the following information:

10     a. The total taxable gallons of water delivered by the water  
11 utility to consumers within the service area during the tax  
12 year.

13     b. The tentative replacement taxes imposed by section 437B.3  
14 due for the tax year.

15     2. A return shall be signed by an officer, or other person  
16 duly authorized by the water utility, and must be certified as  
17 correct and in accordance with forms and rules prescribed by  
18 the director.

19     3. At the time of filing the return required by subsection  
20 1 with the director, the taxpayer shall calculate the tentative  
21 replacement tax due for the tax year. The director shall  
22 compute any adjustments to the replacement tax required by  
23 subsection 5 and by section 437B.3, subsection 3, and notify  
24 the taxpayer of any such adjustments in accordance with the  
25 requirements of section 437B.3, subsection 5. The director and  
26 the department of management shall compute the allocation of  
27 replacement taxes among local taxing districts and report such  
28 allocations to county treasurers pursuant to section 437B.11.  
29 Based on such allocations, the treasurer of each county shall  
30 notify each taxpayer on or before August 31 following a tax  
31 year of its replacement tax obligation to the county treasurer.  
32 On or before September 30, 2015, and on or before September  
33 30 of each subsequent year, the taxpayer shall remit to the  
34 county treasurer of each county to which such replacement tax  
35 is allocated pursuant to section 437B.11, one-half of the

1 replacement tax so allocated, and on or before the succeeding  
2 March 31, the taxpayer shall remit to the county treasurers the  
3 remaining replacement tax so allocated. If notification of a  
4 taxpayer's replacement tax obligation is not mailed by a county  
5 treasurer on or before August 31 following a tax year, such  
6 taxpayer shall have thirty days from the date the notification  
7 is mailed to remit one-half of the replacement tax otherwise  
8 required by this subsection to be remitted to such county  
9 treasurer on or before September 30. If a taxpayer fails to  
10 timely remit replacement taxes as provided in this subsection,  
11 the county treasurer of each affected county shall notify the  
12 director of such failure.

13 4. Notwithstanding subsections 1 through 3, a taxpayer  
14 shall not be required to file a return otherwise required by  
15 this section or remit any replacement tax for any tax year in  
16 which the taxpayer's replacement tax liability before credits  
17 is three hundred dollars or less, provided that all water  
18 utilities shall file a return, regardless of the taxpayer's  
19 replacement tax liability.

20 5. Following the determination of replacement delivery tax  
21 rates by the director pursuant to section 437B.3, subsection  
22 2, if an adjustment resulting from a taxpayer appeal is made  
23 to taxes levied and paid by a taxpayer with respect to any of  
24 the assessment years 2008 through 2012 used in determining  
25 such rates, the director shall recalculate the replacement  
26 delivery tax rate for any affected water utility to reflect  
27 the impact of such adjustment as if such adjustment had been  
28 reflected in the initial determination of average annual  
29 centrally assessed property tax liability allocated to water  
30 service pursuant to section 437B.3, subsection 2, paragraph  
31 "a". Rate recalculations shall be made and published in the  
32 Iowa administrative bulletin by the director on or before March  
33 31 following the calendar year in which a final determination  
34 of the adjustment is made. Taxpayers shall report to the  
35 director any increase or decrease in the tentative replacement

1 tax required to be shown to be due pursuant to subsection  
2 1, paragraph "b", for any tax year with the return for the  
3 year in which the recalculated tax rates which gave rise  
4 to the adjustment are published in the Iowa administrative  
5 bulletin. The director and the department of management shall  
6 redetermine the allocation of replacement taxes pursuant to  
7 section 437B.11 for each affected tax year. If a taxpayer has  
8 overpaid replacement taxes, the overpayment shall be reported  
9 by the director to such taxpayer and to the appropriate county  
10 treasurers and shall be a credit against the replacement taxes  
11 owed by such taxpayer for the year in which the recalculated  
12 rates which gave rise to the overpayment are published in the  
13 Iowa administrative bulletin. If a taxpayer has overpaid  
14 centrally assessed property taxes for assessment years prior  
15 to tax year 2014, such overpayment shall be a credit against  
16 replacement taxes owed by such taxpayer for the year in which  
17 the overpayment is determined. Unused credits may be carried  
18 forward and used to reduce future replacement tax liabilities  
19 until exhausted.

20     Sec. 14. NEW SECTION.   **437B.5 Failure to file return —**  
21 **incorrect return.**

22     1. As soon as practicable after a return required by section  
23 437B.4, subsection 1, is filed, and in any event within three  
24 years after such return is filed, the director shall examine  
25 the return, determine the tax due if the return is found to be  
26 incorrect, and give notice to the taxpayer of the determination  
27 as provided in subsection 2. The period for the examination  
28 and determination of the correct amount of tax is unlimited in  
29 the case of a false or fraudulent return made with the intent  
30 to evade any tax or in the case of a failure to file a return.

31     2. If a return required by section 437B.4, subsection  
32 1, is not filed, or if such return when filed is incorrect  
33 or insufficient and the taxpayer fails to file a corrected  
34 or sufficient return within twenty days after such return  
35 is required by notice from the director, the director shall

1 determine the amount of tax due from information as the  
2 director may be able to obtain and, if necessary, may estimate  
3 the tax due on the basis of external indices. The director  
4 shall give notice of the determination to the taxpayer liable  
5 for the tax and to the county treasurers to whom the tax  
6 is owed. The determination shall fix the tax unless the  
7 taxpayer against whom it is levied, within sixty days after  
8 notice of the determination, applies to the director for a  
9 hearing. At the hearing evidence may be offered to support  
10 the determination or to prove that it is incorrect. After the  
11 hearing the director shall give notice of the decision to the  
12 person liable for the tax and to the county treasurers to whom  
13 the tax is owed.

14 3. The three-year period of limitation provided in  
15 subsection 1 may be extended by the taxpayer by signing  
16 a waiver agreement form provided by the department. The  
17 agreement shall stipulate the period of extension and the  
18 tax period to which the extension applies. The agreement  
19 shall also provide that a claim for refund may be filed by the  
20 taxpayer at any time during the period of extension.

21 Sec. 15. NEW SECTION. **437B.6 Judicial review.**

22 1. Judicial review of the actions of the director may  
23 be sought pursuant to chapter 17A, the Iowa administrative  
24 procedure Act.

25 2. For cause and upon a showing by the director that  
26 collection of the tax in dispute is in doubt, the court may  
27 order the petitioner to file with the clerk of the district  
28 court a bond for the use of the appropriate local taxing  
29 authorities, with sureties approved by the clerk of the  
30 district court, in the amount of the tax appealed from,  
31 conditioned upon the performance by the petitioner of any  
32 orders of the court.

33 3. An appeal may be taken by the taxpayer or the director to  
34 the supreme court irrespective of the amount involved.

35 4. A person aggrieved by a decision of the chief financial

1 officer of a city under this chapter may seek review by writ  
2 of certiorari within thirty days of the decision sought to be  
3 reviewed.

4     Sec. 16. NEW SECTION.   **437B.7 Lien — actions authorized.**

5     1. Whenever a taxpayer who is liable to pay a replacement  
6 tax imposed by this chapter refuses or neglects to pay such  
7 tax, the amount, including any interest, penalty, or addition  
8 to such tax, together with the costs that may accrue, shall be  
9 a lien in favor of the chief financial officer of the city or  
10 the county treasurer to which the tax is owed upon all property  
11 and rights to property, whether real or personal, belonging to  
12 the taxpayer. The lien shall be prior to and superior over all  
13 subsequent liens upon any personal property within this state,  
14 or right to such personal property, belonging to the taxpayer,  
15 without the necessity of recording the lien. The requirement  
16 for recording, as applied to the replacement tax imposed by  
17 this chapter, shall apply only to a lien upon real property.  
18 The lien may be preserved against subsequent mortgagees,  
19 purchasers, or judgment creditors, for value and without notice  
20 of the lien, on any real property situated in a county, by the  
21 county treasurer to which replacement tax is owed by filing  
22 with the recorder of the county in which the real property is  
23 located a notice of the lien. For purposes of the replacement  
24 tax collected by a city, the lien may be preserved against  
25 subsequent mortgagees, purchasers, or judgment creditors, for  
26 value and without notice of the lien, on any real property  
27 situated in the county, by the chief financial officer of  
28 the city to which replacement tax is owed by filing with the  
29 recorder of the county in which the real property is located a  
30 notice of the lien.

31     2. The county recorder of each county shall index each lien  
32 showing the applicable entries specified in sections 558.49  
33 and 558.52 and showing, under the names of taxpayers arranged  
34 alphabetically, all of the following:

35     a. The name of the taxpayer.

1     *b.* The name of the county treasurer and county or the name  
2 of the chief financial officer and city as claimant.

3     *c.* Time the notice of lien was filed for recording.

4     *d.* Date of notice.

5     *e.* Amount of lien then due.

6     *f.* Date of assessment.

7     *g.* Date when the lien is satisfied.

8     3. The recorder shall endorse on each notice of lien the  
9 day, hour, and minute when filed for recording and the document  
10 reference number, shall preserve such notice, shall index the  
11 notice in the index, and shall promptly record the lien in the  
12 manner provided for recording real estate mortgages. The lien  
13 is effective from the time of the indexing of the lien.

14     4. The county treasurer or chief financial officer of the  
15 city shall pay recording fees as provided in section 331.604,  
16 for the recording of the lien, or for its satisfaction.

17     5. Upon the payment of the replacement tax as to which  
18 a county treasurer has filed notice with a county recorder,  
19 the county treasurer shall promptly file with the recorder a  
20 satisfaction of the replacement tax. The recorder shall record  
21 the notice of satisfaction showing the applicable entries  
22 specified in sections 558.49 and 558.52.

23     6. Section 445.3 applies with respect to the replacement  
24 taxes and special utility property tax levies and penalties and  
25 interest imposed by this chapter, except for the provisions  
26 limiting the commencement of actions. In addition, at the  
27 county treasurer's discretion, chapters 446, 447, and 448 apply  
28 in the enforcement of the special utility property tax levies,  
29 but any tax deed issued shall not extinguish a tax lien or  
30 judgment lien for replacement taxes that has attached to the  
31 property.

32     Sec. 17. NEW SECTION.   **437B.8 Service of notice.**

33     1. A notice authorized or required under this chapter may  
34 be given by mailing the notice to the taxpayer, addressed to  
35 the taxpayer at the address given in the last return filed by

1 the taxpayer pursuant to this chapter, or if no return has  
2 been filed, then to the most recent address of the taxpayer  
3 obtainable. The mailing of the notice is presumptive evidence  
4 of the receipt of the notice by the taxpayer to whom the notice  
5 is addressed. A period of time within which some action must  
6 be taken for which notice is provided under this section  
7 commences to run from the date of mailing of the notice.

8 2. There is no limitation for the enforcement of a civil  
9 remedy pursuant to any proceeding or action taken to levy,  
10 appraise, assess, determine, or enforce the collection of any  
11 tax or penalty due under this chapter.

12 Sec. 18. NEW SECTION. 437B.9 Penalties — offenses —  
13 limitation.

14 1. A taxpayer is subject to the penalty provisions in  
15 section 421.27 with respect to any replacement tax due under  
16 this chapter. A taxpayer shall also pay interest on the  
17 delinquent replacement tax at the rate in effect under section  
18 421.7 for each month computed from the date the payment was  
19 due, counting each fraction of a month as an entire month. The  
20 penalty and interest shall be paid to the county treasurer, or  
21 in the case of penalty and interest associated with a municipal  
22 transfer replacement tax to the city financial officer, and  
23 shall be disposed of in the same manner as other receipts under  
24 this chapter. Unpaid penalties and interest may be enforced in  
25 the same manner as provided for unpaid replacement tax under  
26 this chapter.

27 2. A taxpayer, or officer, member, or employee of the  
28 taxpayer, who willfully attempts to evade the replacement tax  
29 imposed or the payment of the replacement tax is guilty of a  
30 class "D" felony.

31 3. The issuance of a certificate by the director or a county  
32 treasurer stating that a replacement tax has not been paid,  
33 that a return has not been filed, or that information has not  
34 been supplied pursuant to this chapter is prima facie evidence  
35 of such failure.



1     4. A taxpayer, or officer, member, or employee of the  
2 taxpayer, required to pay a replacement tax, or required to  
3 make, sign, or file an annual return or supplemental return,  
4 who willfully makes a false or fraudulent annual return, or  
5 who willfully fails to pay at least ninety percent of the  
6 replacement tax or willfully fails to make, sign, or file the  
7 annual return, as required, is guilty of a fraudulent practice.

8     5. For purposes of determining the place of trial for a  
9 violation of this section, the situs of an offense is in the  
10 county of the residence of the taxpayer, officer, member, or  
11 employee of the taxpayer charged with the offense, unless  
12 the taxpayer, officer, member, or employee of the taxpayer  
13 is a nonresident of this state or the residence cannot be  
14 established, in which event the situs of the offense is in Polk  
15 county.

16     6. Prosecution for an offense specified in this section  
17 shall be commenced within six years after the commission of the  
18 offense.

19     Sec. 19. NEW SECTION. 437B.10 **Correction of errors —**  
20 **refunds or credits of replacement tax paid — information**  
21 **confidential — penalty.**

22     1. a. If an amount of replacement tax, penalty, or interest  
23 has been paid which was not due under this chapter, a county  
24 treasurer to whom such erroneous payment was made shall do one  
25 of the following:

26       (1) Credit the amount of the erroneous payment against any  
27 replacement tax due, or to become due, from the taxpayer on the  
28 books of the city or county.

29       (2) Refund the amount of the erroneous payment to the  
30 taxpayer.

31     b. Claims for refund or credit of replacement taxes paid  
32 shall be filed with the director. A claim for refund or credit  
33 that is not filed with the director within three years after  
34 the replacement tax payment upon which a refund or credit  
35 is claimed became due, or one year after the replacement

1 tax payment was made, whichever time is later, shall not be  
2 allowed. A claim for refund or credit of tax alleged to be  
3 unconstitutional not filed with the director within ninety days  
4 after the replacement tax payment upon which a refund or credit  
5 is claimed became due shall not be allowed. As a precondition  
6 for claiming a refund or credit of alleged unconstitutional  
7 taxes, such taxes must be paid under written protest which  
8 specifies the particulars of the alleged unconstitutionality.  
9 Claims for refund or credit may only be made by, and refunds or  
10 credits may only be made to, the person responsible for paying  
11 the replacement tax, or such person's successors. The director  
12 shall notify affected county treasurers of the acceptance or  
13 denial of any refund claim. Section 421.10 applies to claims  
14 denied by the director.

15 2. *a.* It is unlawful for any present or former officer or  
16 employee of the state to divulge or to make known in any manner  
17 to any person the gallons of water delivered by a water utility  
18 disclosed on a tax return, return information, or investigative  
19 or audit information. A person who violates this section is  
20 guilty of a serious misdemeanor. If the offender is an officer  
21 or employee of the state, such person, in addition to any other  
22 penalty, shall also be dismissed from office or discharged from  
23 employment. This section does not prohibit turning over to  
24 duly authorized officers of the United States or tax officials  
25 of other states such information pursuant to agreement between  
26 the director and the secretary of the treasury of the United  
27 States or the secretary's delegate or pursuant to a reciprocal  
28 agreement with another state.

29 *b.* Local taxing authority employees are deemed to be  
30 officers and employees of the state for purposes this of  
31 subsection.

32 3. Unless otherwise expressly permitted by a section  
33 referencing this chapter, the gallons of water delivered by a  
34 taxpayer in a service area shall not be divulged to any person  
35 or entity, other than the taxpayer, the department of revenue,

1 or the internal revenue service for use in a matter unrelated  
2 to tax administration. This prohibition precludes persons or  
3 entities other than the taxpayer, the department of revenue, or  
4 the internal revenue service from obtaining such information  
5 from the department of revenue. A subpoena, order, or process  
6 which requires the department of revenue to produce such  
7 information to a person or entity, other than the taxpayer, the  
8 department of revenue, or internal revenue service, for use in  
9 a nontax proceeding is void.

10 4. Notwithstanding subsections 2 and 3, the chief financial  
11 officer of any local taxing authority and any designee of such  
12 officer shall have access to any computations made by the  
13 director pursuant to the provisions of this chapter, and any  
14 tax return or other information used by the director in making  
15 such computations, which affect the replacement tax owed by any  
16 such taxpayer.

17 5. Claims for refund or credit of special utility property  
18 tax levies shall be filed with the appropriate county  
19 treasurer. Subsection 1 applies with respect to the special  
20 utility property tax levy and the county treasurer shall have  
21 the same authority as is granted to the director under this  
22 section.

23 Sec. 20. NEW SECTION. 437B.11 Allocation of revenue.

24 1. The director and the department of management shall  
25 compute the allocation of all replacement tax revenues among  
26 the local taxing districts in accordance with this section and  
27 shall report such allocation by local taxing districts to the  
28 county treasurers on or before August 15 following a tax year.

29 2. The director shall determine and report to the department  
30 of management the total replacement taxes to be collected from  
31 each taxpayer for the tax year on or before July 30 following  
32 such tax year.

33 3. a. All replacement taxes owed by a taxpayer shall  
34 be allocated among the local taxing districts in which such  
35 taxpayer's property is located in accordance with a general

1 allocation formula determined by the department of management  
2 on the basis of general property tax equivalents. General  
3 property tax equivalents shall be determined by applying the  
4 levy rates reported by each local taxing district to the  
5 department of management on or before June 30 following a tax  
6 year to the taxable value of taxpayer property allocated to  
7 each such local taxing district as adjusted and reported to  
8 the department of management in such tax year by the director  
9 pursuant to the procedures required pursuant to section  
10 437B.15. The general allocation formula for a tax year shall  
11 allocate to each local taxing district that portion of the  
12 replacement taxes owed by each taxpayer which bears the same  
13 ratio as such taxpayer's general property tax equivalents for  
14 each local taxing district bears to such taxpayer's total  
15 general property tax equivalents for all local taxing districts  
16 in Iowa.

17     *b.* If, during the tax year, a taxpayer transferred operating  
18 property or an interest in operating property to another  
19 taxpayer, the transferee taxpayer's replacement tax associated  
20 with that property shall be allocated, for the tax year in  
21 which the transfer occurred, under this section in accordance  
22 with the general allocation formula on the basis of the general  
23 property tax equivalents of the transferor taxpayer.

24     *c.* Notwithstanding the provisions of this section, if during  
25 the tax year a person who was not a taxpayer during the prior  
26 tax year acquires a new major addition, as defined in section  
27 437B.2, subsection 8, paragraph "a", subparagraph (4), the  
28 replacement tax associated with that major addition shall be  
29 allocated, for that tax year, under this section in accordance  
30 with the general allocating formula on the basis of the general  
31 property tax equivalents established under paragraph "a" of  
32 this subsection, except that the levy rates established and  
33 reported to the department of management on or before June 30  
34 following the tax year in which the major addition was acquired  
35 shall be applied to the prorated assessed value of the major

1 addition. For purposes of this paragraph, "*prorated assessed*  
2 *value of the major addition*" means the assessed value of the  
3 major addition as of January 1 of the year following the tax  
4 year in which the major addition was acquired multiplied by the  
5 percentage derived by dividing the number of months that the  
6 major addition existed during the tax year by twelve, counting  
7 any portion of a month as a full month.

8 4. On or before August 31 following tax years 2014, 2015,  
9 and 2016, each county treasurer shall compute a special  
10 utility property tax levy or tax credit for each taxpayer for  
11 which a replacement tax liability for each such tax year is  
12 reported to the county treasurer pursuant to subsection 1, and  
13 shall notify the taxpayer of the amount of such tax levy or  
14 tax credit. The amount of the special utility property tax  
15 levy or credit shall be determined for each taxpayer by the  
16 county treasurer by comparing the taxpayer's total replacement  
17 tax liability allocated to taxing districts in the county  
18 pursuant to this section with the anticipated tax revenues  
19 from the taxpayer for all taxing districts in the county. If  
20 the taxpayer's total replacement tax liability allocated to  
21 taxing districts in the county is less than the anticipated  
22 tax revenues from the taxpayer for all taxing districts in  
23 the county, the county treasurer shall levy a special utility  
24 property tax equal to the shortfall which shall be added to  
25 and collected with the replacement tax owed by the taxpayer  
26 to the county treasurer for the tax year pursuant to section  
27 437B.4, subsection 3. If the taxpayer's total replacement tax  
28 liability allocated to taxing districts in the county exceeds  
29 the anticipated tax revenues from the taxpayer for all taxing  
30 districts in the county, the county treasurer shall issue a  
31 credit to the taxpayer which shall be applied to reduce the  
32 taxpayer's replacement tax liability to the county treasurer  
33 for the tax year. If the taxpayer's total replacement tax  
34 liability allocated to taxing districts in the county equals  
35 the anticipated tax revenues from the taxpayer for all taxing

1 districts in the county, no levy or credit is required.  
2 Replacement tax liability for purposes of this subsection means  
3 replacement tax liability before credits allowed by section  
4 437B.4, subsection 5. A recalculation of a special utility  
5 property tax levy or credit shall not be made as a result  
6 of a subsequent recalculation of replacement tax liability  
7 under section 437B.4, subsection 5, or adjustment to assessed  
8 value under section 437B.15. "*Anticipated tax revenues from a*  
9 *taxpayer*" means the product of the total levy rates imposed  
10 by the taxing districts and the value of taxpayer property  
11 allocated to the taxing districts and reported to the county  
12 auditor. Special utility property tax levies and credits  
13 shall be treated as replacement taxes for purposes of section  
14 437B.7. If a special utility property tax levy payment becomes  
15 delinquent, the delinquent payment shall accrue interest and  
16 penalty in the same manner and amount as the replacement tax  
17 under section 437B.9.

18 5. The replacement tax, as adjusted by any special utility  
19 property tax levy or credit and remitted to a county treasurer  
20 by each taxpayer, shall be treated as a property tax when  
21 received and shall be disbursed by the county treasurer  
22 as taxes on real estate. Notwithstanding the allocation  
23 provisions of this section, nothing in this section shall deny  
24 any municipality which has enacted an ordinance or entered  
25 into an agreement for the division and allocation of taxes  
26 authorized under section 403.19 and under which ordinance or  
27 agreement the taxes collected in respect of properties owned  
28 by any of the taxpayers remitting replacement taxes pursuant  
29 to the provisions of this chapter are being divided and  
30 allocated, the right to receive its share of the replacement  
31 tax revenues collected for any year which would otherwise be  
32 paid to such municipality under the terms of any such ordinance  
33 or agreement had this chapter not been enacted. To the extent  
34 that adjustment must be made to the allocation described in  
35 this section to give effect to the terms of such ordinances

1 or agreements, the department of management and the county  
2 treasurer shall make such adjustments.

3 6. In lieu of the adjustment provided for in subsection 5,  
4 the assessed value of property described in section 403.19,  
5 subsection 1, may be reduced by the city or county by the  
6 amount of the taxable value of the property described in  
7 section 437B.11 included in such area on January 1, 2012,  
8 pursuant to amendment of the ordinance adopted by such city or  
9 county pursuant to section 403.19.

10 7. The utility replacement task force created in section  
11 437A.15 shall study the effects of the replacement tax on  
12 local taxing authorities, local taxing districts, consumers,  
13 and taxpayers through January 1, 2016. If the task force  
14 recommends modifications to the replacement tax that will  
15 further the purposes of tax neutrality for local taxing  
16 authorities, local taxing districts, taxpayers, and consumers,  
17 consistent with the stated purposes of this chapter, the  
18 department of management shall transmit those recommendations  
19 to the general assembly.

20 Sec. 21. NEW SECTION. 437B.12 **Assessment exclusive.**

21 All operating property and all other property that is  
22 primarily and directly used in the delivery of water subject  
23 to replacement tax is exempt from taxation except as otherwise  
24 provided by this chapter.

25 Sec. 22. NEW SECTION. 437B.13 **Statutes applicable — rate**  
26 **calculations.**

27 1. The director shall administer and enforce the  
28 replacement tax imposed by this chapter in the same manner as  
29 provided in and subject to sections 422.68, 422.70, 422.71, and  
30 422.75.

31 2. The calculation of tax rates and adjustments to  
32 such rates by the director pursuant to this chapter do not  
33 constitute rulemaking subject to the provisions of chapter 17A.

34 Sec. 23. NEW SECTION. 437B.14 **Tax imposition.**

35 An annual statewide property tax of three cents per one

1 thousand dollars of assessed value is imposed upon all property  
2 described in section 437B.12 on the assessment date of January  
3 1.

4 Sec. 24. NEW SECTION. 437B.15 Adjustment to assessed value  
5 — reporting requirements.

6 1. a. A taxpayer whose property is subject to the statewide  
7 property tax shall report to the director by July 1, 2014, and  
8 by May 1 of each subsequent tax year, on forms prescribed by  
9 the director, the book value, as of the beginning and end of  
10 the preceding calendar year, of all of the following:

11 (1) The local amount of any major addition by local taxing  
12 district.

13 (2) The statewide amount of any major addition without  
14 notation of location.

15 (3) Any building in Iowa at acquisition cost of more than  
16 ten million dollars that was originally placed in service by  
17 the taxpayer prior to January 1, 2013, and that was transferred  
18 or disposed of in the preceding calendar year, listed by local  
19 taxing district.

20 (4) All other taxpayer property without notation of  
21 location.

22 (5) The local amount of any major addition eligible for the  
23 urban revitalization exemption provided for in chapter 404, by  
24 situs.

25 (6) All other transferred taxpayer property, in addition  
26 to any transferred property reported under subparagraph (3),  
27 listed by local taxing district.

28 (7) Any water utility operating property at acquisition  
29 cost of more than one million dollars that was transferred or  
30 disposed of in the preceding calendar year, listed by local  
31 taxing district.

32 b. For purposes of this section:

33 (1) "Book value" means acquisition cost less accumulated  
34 depreciation determined under generally accepted accounting  
35 principles.



1     (2) "*Taxpayer property*" means property described in section  
2 437B.12.

3     (3) "*To dispose of*" means to sell, abandon, decommission,  
4 or retire an asset.

5     (4) "*Transfer*" means a transaction which results in a change  
6 of ownership of taxpayer property and includes a capital lease  
7 transaction.

8     *c.* For purposes of this subsection, "*taxpayer*" includes a  
9 person who would have been a taxpayer in calendar year 2013  
10 had the provisions of this chapter been in effect for the 2013  
11 assessment year.

12    *d.* If a taxpayer owns or leases pursuant to a capital lease  
13 less than the entire interest in a major addition, the local  
14 amount and statewide amount, if any, of such major addition  
15 shall be apportioned to the taxpayer on the basis of its  
16 percentage interest in such major addition.

17    2. *a.* Beginning January 1, 2014, the assessed value of  
18 taxpayer property shall be adjusted annually as provided in  
19 this section. The director, with respect to each taxpayer,  
20 shall do all of the following:

21     (1) Adjust the assessed value of taxpayer property in  
22 each local taxing district by the change in book value during  
23 the preceding calendar year of the local amount of any major  
24 addition reported within such local taxing district.

25     (2) Adjust the assessed value of taxpayer property in each  
26 local taxing district by allocating the change in book value  
27 during the preceding calendar year of the statewide amount  
28 and all other taxpayer property described in subsection 1,  
29 paragraph "*a*", subparagraph (5), to the assessed value of  
30 all taxpayer property in the state pro rata according to its  
31 preadjustment value.

32     (3) In the case of taxpayer property described in subsection  
33 1, paragraph "*a*", subparagraphs (3), (4), and (7), decrease  
34 the assessed value of taxpayer property in each local taxing  
35 district by the assessed value reported within such local

1 taxing district.

2 (4) In the event of a merger or consolidation of two or more  
3 taxpayers, to determine the assessed value of the surviving  
4 taxpayer, combine the assessed values of such taxpayers  
5 immediately prior to the merger or consolidation.

6 (5) In the event any taxpayer property is eligible for the  
7 urban revitalization tax exemption described in chapter 404,  
8 adjust the assessed value of taxpayer property within each  
9 affected local taxing district to reflect such exemption.

10 (6) In the event the base year assessed value of taxpayer  
11 property is adjusted as a result of taxpayer appeals, reduce  
12 the assessed value of taxpayer property in each local taxing  
13 district to reflect such adjustment. The adjustment shall be  
14 allocated in proportion to the allocation of the taxpayer's  
15 assessed value among the local taxing districts determined  
16 without regard to this adjustment. An adjustment to the  
17 base year assessed value of taxpayer property shall be made  
18 as of January 1 of the year following the date on which the  
19 adjustment is finally determined.

20 *b.* In no event shall the adjustments set forth in this  
21 subsection reduce the assessed value of taxpayer property in  
22 any local taxing district below zero.

23 *c.* The director, on or before October 31 of each assessment  
24 year, shall report to the department of management and to the  
25 auditor of each county the adjusted assessed value of taxpayer  
26 property as of January 1 of such assessment year for each local  
27 taxing district. For purposes of this subsection, the assessed  
28 value of taxpayer property in each local taxing district  
29 subject to adjustment under this section by the director means  
30 the assessed value of such property as of the preceding January  
31 1 as determined and allocated among the local taxing districts  
32 by the director.

33 *d.* Nothing in this chapter shall be interpreted to authorize  
34 local taxing authorities to exclude from the calculation of  
35 levy rates the taxable value of taxpayer property reported to

1 county auditors pursuant to this subsection.

2     e. In addition to reporting the assessed values as described  
3 in this subsection, the director, on or before October 31 of  
4 each assessment year, shall also report to the department of  
5 management and to the auditor of each county the taxable value  
6 of taxpayer property as of January 1 of such assessment year  
7 for each local taxing district. For purposes of this chapter,  
8 "*taxable value*" means the value for all property subject to  
9 the replacement tax annually determined by the director, by  
10 dividing the estimated annual replacement tax liability for  
11 that property by the current fiscal year's consolidated taxing  
12 district rate for the taxing district where that property is  
13 located, then multiplying the quotient by one thousand. A  
14 taxpayer who paid more than five hundred thousand dollars in  
15 replacement tax in the previous tax year or who believes the  
16 taxpayer's replacement tax liability will vary more than ten  
17 percent from the previous tax year shall report to the director  
18 by October 1 of the current calendar year, on forms prescribed  
19 by the director, the estimated replacement tax liability that  
20 will be attributable to all of the taxpayer's property subject  
21 to replacement tax for the current tax year. The department  
22 shall utilize the estimated replacement tax liability as  
23 reported by the taxpayer or the taxpayer's prior year's  
24 replacement tax amounts to estimate the current tax year's  
25 taxable value for that property. Furthermore, a taxpayer  
26 who has a new major addition of operating property which is  
27 put into service for the first time in the current calendar  
28 year shall report to the director by October 1 of the current  
29 calendar year, or at the time the major addition is put into  
30 service, whichever time is later, on forms prescribed by the  
31 director, the cost of the major addition and, if not previously  
32 reported, shall report the estimated replacement taxes which  
33 that asset will generate in the current calendar year. For  
34 the purposes of computing the taxable value of property in a  
35 taxing district, the taxing district's share of the estimated

1 replacement tax liability shall be the taxing district's  
2 percentage share of the assessed value allocated by property  
3 tax equivalent multiplied by the total estimated replacement  
4 tax. The assessed value allocated by property tax equivalent  
5 shall be determined by dividing the taxpayer's current year  
6 assessed valuation in a taxing district by one thousand, and  
7 then multiplying by the prior year's consolidated tax rate.

8     Sec. 25. NEW SECTION.   **437B.16 Tax exemptions.**

9     Except as provided in section 437B.12, all property tax  
10 exemptions in the Code do not apply to property subject to the  
11 statewide property tax unless such exemptions expressly refer  
12 to the statewide property tax, except that if property was  
13 exempt from property tax on January 1, 2014, such exemption  
14 shall continue until the exemption expires, is phased out, or  
15 is repealed. The property of a taxpayer who does not owe any  
16 replacement tax is exempt from the statewide property tax for  
17 the coinciding assessment year.

18     Sec. 26. NEW SECTION.   **437B.17 Return and payment**  
19 **requirements.**

20     1. Each water utility whose property is subject to the  
21 statewide property tax shall file with the director a return,  
22 on or before March 31 following the assessment year, including  
23 but not limited to the following information:

24     a. The assessed value of property subject to the statewide  
25 property tax.

26     b. The amount of statewide property tax computed on such  
27 assessed value.

28     2. The first return under subsection 1 is due on or before  
29 February 28, 2015.

30     3. A return shall be signed by an officer, or other person  
31 duly authorized by the taxpayer, and must be certified as  
32 correct and in accordance with rules and forms prescribed by  
33 the director.

34     4. At the time of filing the return with the director,  
35 the taxpayer shall calculate the statewide property tax owed

1 for the assessment year and shall remit to the director the  
2 statewide property tax required to be shown due on the return.

3 5. Notwithstanding subsections 1 through 4, a taxpayer  
4 is not required to file a return under this section or to  
5 remit any statewide property tax for any tax year in which the  
6 taxpayer's statewide property tax liability is one dollar or  
7 less.

8 Sec. 27. NEW SECTION. **437B.18 Statutes applicable.**

9 1. Sections 437B.5, 437B.6, 437B.8, and 437B.9, and section  
10 437B.10, subsection 1, are applicable to water utilities whose  
11 property is subject to the statewide property tax.

12 2. *a.* Section 422.26 applies with respect to the statewide  
13 property tax and penalties imposed by this chapter, except  
14 that, as applied to any tax imposed by this chapter, the lien  
15 provided shall be prior to and superior over all subsequent  
16 liens upon any personal property within this state or right  
17 to such personal property belonging to the taxpayer, without  
18 the necessity of recording the lien as provided in section  
19 422.26. The requirement for recording, as applied to the  
20 statewide property tax imposed by this chapter, shall apply  
21 only to a lien upon real property. In order to preserve such  
22 lien against subsequent mortgagees, purchasers, or judgment  
23 creditors, for value and without notice of the lien, on any  
24 real property situated in a county, the director shall file  
25 with the recorder of the county in which the real property is  
26 located a notice of the lien.

27 *b.* The county recorder of each county shall index each lien  
28 showing the applicable entries specified in sections 558.49  
29 and 558.52 and showing, under the names of taxpayers arranged  
30 alphabetically, all of the following:

- 31 (1) The name of the taxpayer.  
32 (2) The name "State of Iowa" as claimant.  
33 (3) Time the notice of lien was filed for recording.  
34 (4) Date of notice.  
35 (5) Amount of lien then due.

1     (6) Date of assessment.

2     (7) Date when the lien is satisfied.

3     *c.* The recorder shall endorse on each notice of lien the  
4 day, hour, and minute when filed for recording and the document  
5 reference number, shall preserve such notice, and shall  
6 promptly record the lien in the manner provided for recording  
7 real estate mortgages. The lien is effective from the time of  
8 the indexing of the lien.

9     *d.* The director, from moneys appropriated to the department  
10 of revenue for this purpose, shall pay recording fees as  
11 provided in section 331.604 for the recording of the lien, or  
12 for its satisfaction.

13    *e.* Upon the payment of the statewide property tax as to  
14 which the director has filed notice with a county recorder, the  
15 director shall promptly file with the recorder a satisfaction  
16 of the statewide property tax. The recorder shall enter the  
17 satisfaction on the notice on file in the recorder's office and  
18 indicate that fact on the index.

19    Sec. 28. NEW SECTION. 437B.19 **Deposit of tax proceeds.**

20    All revenues received from imposition of the statewide  
21 property tax shall be deposited in the general fund of the  
22 state. Fifty percent of the revenues shall be available, as  
23 appropriated by the general assembly, to the department of  
24 management for salaries, support, services, and equipment to  
25 administer the replacement tax. The balance of the revenues  
26 shall be available, as appropriated by the general assembly, to  
27 the department of revenue for salaries, support, services, and  
28 equipment to administer and enforce the replacement tax and the  
29 statewide property tax.

30    Sec. 29. NEW SECTION. 437B.20 **Records.**

31    Each water utility that is subject to the replacement tax or  
32 the statewide property tax shall maintain records associated  
33 with the replacement tax and the assessed value of property  
34 subject to the statewide property tax for a period of five  
35 years following the later of the original due date for filing a

1 return pursuant to sections 437B.4 and 437B.17 in which such  
2 taxes are reported, or the date on which either such return is  
3 filed. Such records shall include those associated with any  
4 additions or dispositions of property, and the allocation of  
5 such property among local taxing districts.

6 Sec. 30. NEW SECTION. **437B.21 Rules.**

7 The director of revenue may adopt rules pursuant to chapter  
8 17A for the administration and enforcement of this chapter.

9 Sec. 31. Section 441.73, subsection 1, Code 2013, is amended  
10 to read as follows:

11 1. A litigation expense fund is created in the state  
12 treasury. The litigation expense fund shall be used for the  
13 payment of litigation expenses incurred by the state to defend  
14 property valuations established by the director of revenue  
15 pursuant to section 428.24 and chapters 433, 434, 437, 437A,  
16 437B, and 438, and for the payment of litigation expenses  
17 incurred by the state to defend the imposition of replacement  
18 taxes and statewide property taxes under ~~chapter~~ chapters 437A  
19 and 437B.

20 Sec. 32. Section 443.2, unnumbered paragraph 2, Code 2013,  
21 is amended to read as follows:

22 The county auditor shall list the aggregate actual value  
23 and the aggregate taxable value of all taxable property within  
24 the county and each political subdivision including property  
25 subject to the statewide property tax imposed under section  
26 437A.18 or 437B.14 on the tax list in order that the actual  
27 value of the taxable property within the county or a political  
28 subdivision may be ascertained and shown by the tax list for  
29 the purpose of computing the debt-incurring capacity of the  
30 county or political subdivision. As used in this section,  
31 "*actual value*" is the value determined under section 441.21,  
32 subsections 1 to 3, prior to the reduction to a percentage of  
33 actual value as otherwise provided in section 441.21. "*Actual*  
34 *value*" of property subject to statewide property tax is the  
35 assessed value under section 437A.18 or 437B.14.

1     Sec. 33. Section 476.6, subsection 19, paragraphs a and b,  
2 Code 2013, are amended to read as follows:

3     a. The costs of the replacement tax imposed pursuant to  
4 chapter 437A or 437B shall be reflected in the charges of  
5 utilities subject to rate regulation, in lieu of the utilities'  
6 costs of property taxes. The imposition of the replacement  
7 taxes pursuant to chapter 437A is not intended to initiate any  
8 change in the rates and charges for the sale of electricity,  
9 the sale of natural gas, or the transportation of natural  
10 gas that is subject to regulation by the board and in effect  
11 on January 1, 1999. The imposition of the replacement taxes  
12 pursuant to chapter 437B is not intended to initiate any change  
13 in the rates and charges for the sale of water that is subject  
14 to regulation by the board and in effect on January 1, 2014.

15     b. The cost of the replacement taxes imposed by chapter 437A  
16 or 437B shall be allocated among and within customer classes in  
17 a manner that will replicate the tax cost burden of the current  
18 property tax on individual customers to the maximum extent  
19 practicable.

20     Sec. 34. IMPLEMENTATION — EMERGENCY RULES. The department  
21 of revenue shall adopt administrative rules under section  
22 17A.4, subsection 3, and section 17A.5, subsection 2, paragraph  
23 "b", to implement this Act including but not limited to rules  
24 requiring water utilities to report all information and data  
25 necessary for the department to carry out the provisions of  
26 this Act and the rules shall be effective immediately upon  
27 filing unless a later date is specified in the rules. Any  
28 rules adopted in accordance with the provisions of this  
29 section shall also be published as notice of intended action  
30 as provided in section 17A.4.

31     Sec. 35. EFFECTIVE UPON ENACTMENT. This Act, being deemed  
32 of immediate importance, takes effect upon enactment.

33     Sec. 36. APPLICABILITY. This Act applies to property tax  
34 assessment years and replacement tax years beginning on or  
35 after January 1, 2014.



1 EXPLANATION

2 This bill enacts new Code chapter 437B, which establishes  
3 a water utility replacement tax and statewide property tax  
4 imposed on water utility property.

5 The bill imposes a replacement delivery tax on each water  
6 utility that delivers water to a consumer within the water  
7 utility's service area, as defined in the bill. The bill  
8 defines "water utility" to mean a person engaged primarily  
9 in the production, delivery, service, or sale of water in a  
10 service area, whether formed or organized under the laws of  
11 this state or elsewhere, and subject to the rate and service  
12 regulation of the utilities board pursuant to Code chapter  
13 476. Under the bill, however, "water utility" does not include  
14 a cooperative, municipal utility, or other entity engaged  
15 primarily in such activities that is not under the jurisdiction  
16 of the utilities board.

17 The replacement delivery tax imposed in the bill is equal to  
18 the number of gallons of water delivered to consumers in the  
19 water utility's service area by the taxpayer during the tax  
20 year multiplied by the replacement delivery tax rate in effect  
21 for the service area. The director of revenue is required to  
22 calculate the replacement delivery tax rate for each service  
23 area using a methodology specified in the bill. The bill also  
24 establishes conditions under which the replacement delivery  
25 tax rate shall be adjusted for specific service areas. The  
26 replacement delivery tax rate in effect for each service area  
27 must be published annually by the director of revenue in the  
28 Iowa administrative bulletin.

29 Each taxpayer subject to the water utility replacement tax  
30 imposed under new Code chapter 437B must file on or before  
31 March 31 following a tax year with the director of revenue a  
32 return signed by an officer or other person authorized by the  
33 water utility that includes specified information relating  
34 to the total taxable gallons of water delivered by the water  
35 utility to consumers within the service area during the tax

1 year and the tentative replacement taxes due for the tax year.

2 The bill provides that a taxpayer shall not be required to  
3 file a return or remit any replacement tax for any tax year in  
4 which the taxpayer's replacement tax liability before credits  
5 is \$300 or less.

6 The bill specifies the duties of the department of revenue  
7 for the calculation of the tentative replacement tax due  
8 for each tax year, for making applicable adjustments to the  
9 tentative replacement tax amounts, and for the examination of  
10 filed returns.

11 Under the bill, actions of the director of revenue under new  
12 Code chapter 437B are reviewable pursuant to Code chapter 17A  
13 (Iowa Administrative Procedure Act).

14 The bill provides for the filing of a lien when a taxpayer  
15 who is liable to pay a tax imposed by new Code chapter 437B  
16 refuses or neglects to pay such tax.

17 The bill provides that a taxpayer is subject to the  
18 penalty provisions in Code section 421.27 with respect to any  
19 replacement tax due under new Code chapter 437B and requires  
20 a taxpayer to also pay interest on delinquent replacement tax  
21 amounts at the rate in effect under Code section 421.7. A  
22 taxpayer, or officer, member, or employee of the taxpayer, who  
23 willfully attempts to evade the replacement tax imposed or the  
24 payment of the replacement tax is guilty of a class "D" felony.  
25 In addition, a taxpayer, or officer, member, or employee of the  
26 taxpayer, required to pay a replacement tax, or required to  
27 make, sign, or file an annual return or supplemental return,  
28 who willfully makes a false or fraudulent annual return, or who  
29 willfully fails to pay at least 90 percent of the replacement  
30 tax or willfully fails to make, sign, or file the annual  
31 return, as required, is guilty of a fraudulent practice. The  
32 bill provides that prosecution for such offenses shall be  
33 commenced within six years after the commission of the offense.

34 The bill specifies the procedures for refunding or providing  
35 a credit for the payment of a replacement tax, penalty, or

1 interest which was not due under new Code chapter 437B.

2 Under the bill, it is unlawful for any present or former  
3 officer or employee of the state to divulge or to make known in  
4 any manner to any person, except specified government entities,  
5 the gallons of water delivered by a water utility disclosed on  
6 a tax return, return information, or investigative or audit  
7 information. A person who violates this provision of the  
8 bill is guilty of a serious misdemeanor. In addition, if the  
9 offender is an officer or employee of the state, such person,  
10 in addition to any other penalty, shall also be dismissed from  
11 office or discharged from employment.

12 The bill requires the director of revenue and the department  
13 of management to compute the allocation of all replacement  
14 tax revenues among the local taxing districts and report such  
15 allocation by local taxing districts to the county treasurers  
16 on or before August 15 following a tax year. Under the bill,  
17 all replacement taxes owed by a taxpayer shall be allocated  
18 among the local taxing districts in which such taxpayer's  
19 property is located in accordance with a general allocation  
20 formula determined by the department of management on the basis  
21 of general property tax equivalents, as determined in the bill.  
22 The general allocation formula for a tax year shall allocate  
23 to each local taxing district that portion of the replacement  
24 taxes owed by each taxpayer which bears the same ratio as such  
25 taxpayer's general property tax equivalents for each local  
26 taxing district bears to such taxpayer's total general property  
27 tax equivalents for all local taxing districts in the state.  
28 The bill provides for the adjustments to the allocations based  
29 on certain specified conditions.

30 The bill provides that on or before August 31 following  
31 tax years 2014, 2015, and 2016, each county treasurer shall  
32 compute a special utility property tax levy or tax credit for  
33 each taxpayer for which a replacement tax liability for each  
34 such tax year is reported to the county treasurer and shall  
35 notify the taxpayer of the amount of such tax levy or tax

1 credit. The amount of the special utility property tax levy  
2 or credit shall be determined for each taxpayer by the county  
3 treasurer by comparing the taxpayer's total replacement tax  
4 liability allocated to taxing districts in the county with  
5 the anticipated tax revenues from the taxpayer for all taxing  
6 districts in the county. If the taxpayer's total replacement  
7 tax liability allocated to taxing districts in the county is  
8 less than the anticipated tax revenues from the taxpayer for  
9 all taxing districts in the county, the county treasurer shall  
10 levy a special utility property tax equal to the shortfall  
11 which shall be added to and collected with the replacement tax  
12 owed by the taxpayer to the county treasurer for the tax year.  
13 If the taxpayer's total replacement tax liability allocated  
14 to taxing districts in the county exceeds the anticipated  
15 tax revenues from the taxpayer for all taxing districts in  
16 the county, the county treasurer shall issue a credit to the  
17 taxpayer which shall be applied to reduce the taxpayer's  
18 replacement tax liability to the county treasurer for the tax  
19 year.

20 The replacement tax, as adjusted by any special utility  
21 property tax levy or credit and remitted to a county treasurer  
22 by each taxpayer, shall be treated as a property tax when  
23 received and shall be disbursed by the county treasurer as  
24 taxes on real estate. The bill specifies the manner in which  
25 replacement tax revenue under new Code chapter 437B shall be  
26 apportioned for property subject to division and allocation of  
27 taxes authorized under Code section 403.19.

28 The bill requires the utility replacement task force  
29 created in Code section 437A.15 to study the effects of the  
30 replacement tax on local taxing authorities, local taxing  
31 districts, consumers, and taxpayers through January 1, 2016,  
32 and authorizes the utility replacement task force to make  
33 appropriate recommendations to the general assembly.

34 The bill specifies that all operating property and all  
35 other property that is primarily and directly used in the

1 delivery of water subject to the replacement tax is exempt  
2 from taxation except as otherwise provided by new Code chapter  
3 437B, which, in addition to the replacement tax, imposes the  
4 statewide property tax levy of three cents per \$1,000 of  
5 assessed value. The bill requires a taxpayer whose property  
6 is subject to the statewide property tax to report to the  
7 director of revenue specified property and value information  
8 relating to such property and file a return with the director  
9 of revenue specifying the assessed value of property subject to  
10 the statewide property tax and the amount of statewide property  
11 tax computed on such assessed value.

12 Under the bill, all revenues received from imposition of  
13 the statewide property tax shall be deposited in the general  
14 fund of the state. Fifty percent of the revenues shall be  
15 available, as appropriated by the general assembly, to the  
16 department of management for salaries, support, services, and  
17 equipment to administer the replacement tax. The balance  
18 of the revenues shall be available, as appropriated by the  
19 general assembly, to the department of revenue for salaries,  
20 support, services, and equipment to administer and enforce the  
21 replacement tax and the statewide property tax.

22 The bill specifies replacement tax record retention and  
23 maintenance requirements for water utilities.

24 The bill authorizes the director of revenue to adopt  
25 rules pursuant to Code chapter 17A for the administration  
26 and enforcement of new Code chapter 437B. In addition, the  
27 bill authorizes the department of revenue to adopt emergency  
28 administrative rules to implement the bill including but not  
29 limited to rules requiring water utilities to report all  
30 information and data necessary for the department to carry out  
31 the provisions of the bill.

32 The bill makes corresponding changes to other provisions of  
33 the Code to reflect the enactment of new Code chapter 437B.

34 The bill takes effect upon enactment and applies to property  
35 tax assessment years and replacement tax years beginning on or

S.F. \_\_\_\_\_

1 after January 1, 2014.